

**REMARKS**

In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of the present application.

**A. Drawings**

The drawings have been objected to under 37 C.F.R. 1,83(a) as not showing every feature of the invention specified in the claims. Specifically, claim 6 requires a “first resilient seating layer forms a sleeve receiving at least a portion of the seat support.” Applicants respectfully disagree with the objections because this claimed feature is shown in the drawings.

For example, Applicants direct the Examiner’s attention to the embodiment depicted in Figs. 21-24 and discussed in Paras. 62, *et seq.* With reference to Figs. 21-24, the specification discloses that the “seat 200 has a rigid frame 202 to support the suspension system, which includes top and bottom layers of an elastic web 204, a foam pad 206, and a cover 208.” Para. 63, lines 1-3. Furthermore, the frame 202 “can consist of two generally U-shaped components that are assembled together.” Para. 64, lines 1-2. The elastic layer 204 “is the inner most layer,” and is “preferably in the form of a sleeve into which the frame 202 is inserted.” Para. 67, lines 1-2.

Clearly, the claimed limitations are disclosed in the drawings and in the specified text, and the features are described in detail in the specification. Accordingly, Applicants respectfully request that this objection be withdrawn.

**B. Claims**

Claims 1, 4-19, and 21-28 are currently pending. Claims 2, 3, and 20 are hereby canceled.

**1. Claims Objections**

Claim 11 is objected to for informalities. As suggested in the Office Action, claim 11 has been amended to replace the word “indica” with “indicia.”

Claim 17 is objected to for informalities. As suggested in the Office Action, claim 17 has been amended to replace the phrase “first and second set of legs” with “first and second sets of legs.”

Claims 18 and 19 were rejected as being dependent from objected to claim 17. As claim 17 is believed to have been amended to overcome the objection, Applicants believe that this objection is also overcome.

Claim 29 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Accordingly, claim 29 has been rewritten to include the limitations of claims 20, 22, 23, 24, 27, and 28. Claim 29, as amended, is thus believed to be allowable.

## 2. Claims Rejections

### a. 35 USC §112

Claim 15 is rejected under 35 USC 112, 2<sup>nd</sup> paragraph, for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the phrase “the lower portion” lacks sufficient antecedent basis. The claim has been amended to replace “the lower portion” with “a lower portion.” Accordingly, it is believed that this rejection is overcome.

### b. 35 USC §102

#### i. The ‘652 Patent to Tenenboym, et al.

Claims 1-5, 9-10, and 14-16 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,612,652 to Tenenboym, et al. Claims 2 and 3 are canceled, and claim 1 is an independent claim from which rejected claims 4, 9-10, and 14-16 directly or indirectly depend.

The ‘652 patent discloses a theater seat assembly 10 including a “stanchion 12 for supporting and securing” the assembly 10 to “a support surface . . . such as a floor of a movie theater.” Col. 2, lines 2–26. In fact, the stanchion 12 includes features (foot portion 18) for bolting the assembly to the floor. The stanchion 12 further includes a vertical leg portion 14 and an arm portion 16 generally perpendicular to the leg portion 14. The foot portion 18, leg portion

14, and arm portion 16 are fixed and unable to shift positions. Pivottally attached to the arm portion 16 is a seat portion 22. The seat portion 22 includes a seat cushion 24 and a seat trim cover 26. The seat cushion 24 and cover 26 are attached to and supported by a seat frame 30 which is directly attached to the arm portion 16. Below the seat cushion 24 is a suspension member 48 (reference not found in the drawings) secured to the seat frame 30 by retainers 53 (see Fig. 7, e.g.).

The '652 patent fails to anticipate the claims of the present application. Claim 1, as amended, requires "a frame having a plurality of frame members, the frame members being moveable between a first position for storage and a second position for use." Claim 1 also requires "a seat supported by the frame and moveable relative to the frame members, the seat comprising a seat support and a first resilient seating layer, the seat support defining an opening and at least a portion of the first resilient seating layer extending over the opening so that the first resilient seating layer is capable of extending below the seat support." In other words, claim 1 requires a frame with moveable members, and a seat supported by the frame including a seat support. Additionally, the seat support has an opening that allows the resilient seating layer to extend below the seat support.

In contrast, the '652 patent fails to disclose a frame with moveable members. The '652 patent discloses a frame (theater seat assembly 10) with a stanchion having fixed members (foot, leg, and arm portions), and not moveable members as required by the present claim 1. The seat frame 30 of the '652 patent is movable, but the seat cover 78 is secured thereto, and the frame 30 is not part of the stanchion. Were the seat frame 30 considered to be part of the frame, then the '652 patent would not have the separate claim 1 limitation of a seat support as part of the seat.

Contrary to the suggestions in the Office Action, the pivot mechanism 54 is not part of the frame as required by claim 1. The pivot mechanism 54 is secured to the seat frame 30 by fasteners 62 located in respective apertures 61 and 40. Accordingly, the mechanism 54 cannot move relative to the seat frame, as required by "a seat supported by the frame and moveable relative to the frame members" in claim 1.

Nor is the back frame 88 a part of the frame as required by claim 1. The back frame 88 is part of a lounge mechanism, indicated at 114, "allowing the back cushion 82 to lounge back

and forth within a predetermined angle.” However, the back frame 88 does not move relative to another frame member “between a first position for storage and a second position for use.” The back frame 88 moves for lounging - that is, between a plurality of positions for use. Accordingly, the back frame 88, in conjunction with the foot portion, leg portion, or arm portion, cannot fulfill the limitation of claim 1 requiring “frame *members* being moveable between a first position for storage and a second position for use.”

Furthermore, the ‘652 patent fails to disclose or suggest that a resilient layer (suspension member 48) is permitted to extend below the seat support. At best, the ‘652 patent suggests the suspension member 48 extends into the seat support. However, the seat support includes a center member 56 which, at the minimum, would prevent the suspension member 48 from extending through and eventually below the seat support.

As the ‘652 patent does not disclose a frame having moveable members, as required by claim 1, and does not disclose or suggest a resilient layer that can extend below a seat support, also required by claim 1, the ‘652 patent does not anticipate claim 1. Accordingly, the ‘652 patent also does not anticipate the claims dependent from claim 1. For at least these reasons, withdrawal of the present rejection is respectfully requested.

ii. The ‘050 Patent to Huang

Claim 17 stands rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,709,050 to Huang. Claim 17 has been amended to depend from independent claim 1.

The ‘050 patent discloses a chair having a front chair leg 1, a rear chair leg 2, a back 3, and a seat 4. The seat is pivotally connected to the rear leg 2 and includes a peg or pivot shaft 41 which pivots and slides within a slide rail 11. The seat includes a mesh 43 suspended across the seating area.

Claim 17, as amended, includes “a cover extending over at least a portion of the first resilient seating layer, and including a second resilient seating layer extending over at least a portion of the first resilient seating layer.” The ‘050 patent simply discloses a seat 4 with a mesh seat face 43. The ‘050 patent does not disclose or otherwise teach a multi-layer seat, as claimed. Accordingly, the ‘050 patent does not anticipate claim 17.

Furthermore, the '050 patent does not disclose or otherwise teach a resilient layer permitted to extend below the seat frame. For example, in the '050 patent, the seat frame is the tubular metal portion 40. There is no disclosure or teaching in the patent for the mesh face 43 to extend below the metal tube 40. Again, the '050 patent does not anticipate this limitation.

For at least these reasons, withdrawal of the present rejection is respectfully requested.

iii. The '395 Patent to Burch

Claims 20-28 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,609,395 to Burch. Claim 20 has been canceled, claim 21 has been amended to depend from claim 22, and claim 22 has been amended to be independent and to include the limitations of original claim 20.

The '395 patent discloses retrofitting a school bus seat with new cushions and covers. Specifically, the '395 patent discloses stripping the backrest of a bus seat to expose a trapezoidal, tubular steel structure or support 4, and installing a new backrest. The new backrest includes a front modular portion 2, a rear modular portion 14, and a collar 1. As can best be seen in FIG. 3, the front and rear modular portions are installed within the support 4. The collar 1 is then inserted over the support 4 and modular portions to enclose the assembled backrest.

More specifically, the front modular portion 2 includes a layer of plywood 3. "FIG 3 illustrates the front plywood positioned to be assembled into the metal frame superstructure." Col. 3, lines 62-64. The plywood 3 "slides into channel 6" and is bolted in place. Clearly, the front modular portion 2 is received inside the superstructure support 4.

The rear modular section 14 can best be seen, when assembled, in FIG. 4. As can be seen, the rear section 14 is positioned within the support 4. Furthermore, it is secured to the plywood of the front section (see Col. 4, lines 10-14). Referring now to FIG. 5, the plywood layers (7, 3) of the front and rear sections are shown in abutment, and clearly within the support 4 itself.

The '395 patent does not anticipate independent claim 22, as amended. Specifically, claim 22 requires "*at least two shell members that combine to at least partially enclose at least a portion of the frame*" that supports the backrest." In the '395 patent, there is a single member,

that being the collar 1, solely responsible for covering any portion of the frame, and none of the other members. For at least this reason, the '395 patent does not anticipate claim 22, nor claims 21 and 23-28 dependent therefrom.

c. **35 USC 103**

i. The '652 Patent to Tenenboym, et al. in view of the '126 Patent to Boulva

Claim 6 stands rejected under 35 USC §103 as being obvious over U.S. Patent No. 6,612,652 to Tenenboym, et al. in view of U.S. Patent No. 5,393,126 to Boulva. The '126 patent discloses a seat with a seat 11 and back 12 where each is generally tubular and forms a bounded loop. A loop of material may be secured, sleeve-like, over the seat.

Claim 6 is dependent from claim 1. As discussed above, the '652 patent does not disclose a frame having moveable members as required by claim 1 and does not disclose or suggest a resilient layer that can extend below a seat support, also required by claim 1. Therefore, the '652 patent does not anticipate claim 1.

The combination of the '126 patent with the '652 patent does not make these claim limitations obvious. The substitution suggested in the Office Action to simplify the manufacturing process does not make these limitations obvious. There simply is no teaching or suggestion of a frame having moveable members, as discussed above. Though the '126 patent discloses a seat layer 14 that appears deformable, the seat material is "substantially non-extensible" and is utilized to place the tubular seat in compression. There is no suggestion of the seat layer 14 extending below the seat 11.

Accordingly, the cited combination cannot make these limitations obvious. Therefore, withdrawal of the present rejection is respectfully requested.

ii. The '652 Patent to Tenenboym, et al. in view of the '816 Patent to Selbert, et al.

Claims 7-8 and 12-13 stand rejected under 35 USC §103 as being obvious over U.S. Patent No. 6,612,652 to Tenenboym, et al. in view of U.S. Patent No. 4,723,816 to Selbert, et al.

The '816 patent discloses a multi-layer seating cushion.

Each of the rejected claims are dependent from claim 1. Neither the '652 patent or the '816 patent disclose a frame having moveable members, nor a resilient layer that can extend below a seat support, each of which is required by claim 1. Moreover, neither references makes a suggestion to consider such limitations.

As such, the combination of the '652 patent with the '816 patent does not make these claim limitations obvious. Applicants respectfully submit that the substitution suggested in the Office Action has no bearing on these noted limitations. The combination lacks a suggestion of a frame having moveable members, and lacks a suggestion of a seat layer permitted to extend below the seat frame.

For at least these reasons, the cited combination does make these claims obvious. Therefore, withdrawal of the present rejection is respectfully requested.

iii. The '652 Patent to Tenenboym, et al. in view of the '942 Patent to Allegro, Jr.

Claim 11 stands rejected under 35 USC §103 as being obvious over U.S. Patent No. 6,612,652 to Tenenboym, et al. in view of U.S. Patent No. 5,887,942 to Allegro, Jr. The Office Action relies on the '942 patent for the placing of indicia on the seat.

Again, claim 11 is dependent from claim 1. The combination of the '652 patent and the '942 patent does not disclose, teach, or suggest the above discussed limitations of a frame with moveable members and the limitations of the resilient layer permitted to extend below the seat frame. Accordingly, the combination does not make this claim obvious, and withdrawal of the present rejection is respectfully requested.

iv. The '050 Patent to Huang, in view of the '029 Patent to Swy

Claims 18-19 stand rejected under 35 USC §103 as being obvious over U.S. Patent No. 6,709,050 to Huang, in view of U.S. Patent No. 6,174,029 to Swy. Claims 18-19 are dependent from claim 17 which has been amended, as noted above, to be dependent from claim 1.

The '029 patent discloses a stackable chair having legs, a seat, and a backrest. However,

the combination of the '050 and '029 patents does not disclose or suggest the limitations detailed above for claim 17. More specifically, neither of these references, alone or in combination, suggest a multi-layer seat where a first layer is permitted to extend below a seat frame.

Accordingly, the combination does not make these claims obvious, and withdrawal of the present rejection is respectfully requested.

**Conclusion**

In view of the foregoing, Applicants submit that the application and drawings are in condition for allowance. Applicants further submit that the amendments made herein are fully supported by the originally filed specification. Accompanying this Amendment are an Amendment Transmittal, a Petition for Extension of Time, and a Fee Transmittal.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication or credit any overpayment to Deposit Account No. 06-1135.

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Respectfully submitted,

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